



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON, D.C. 20370-5100

ELP

Docket No. 3228-00

27 October 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) 10 U.S.C.1552

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's Naval Record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Navy, applied to this Board requesting, in effect, that his records be correct to show a more favorable characterization of service than under honorable conditions as shown on his DD Form 214 on 1 July 1993.

2. The Board, consisting of Messrs. Pfeiffer, Silberman, and Neuschafer, reviewed Petitioner's allegations of error and injustice on 25 October 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Although it appears that Petitioner's application to the Board was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. The records provided for the Board's review were incomplete. However, the Board found Petitioner enlisted in the Navy on 5 September 1990 for four years at age 19. The record

reflects that he was advanced to AN (E-3) and served without incident until 30 May 1992, when he received nonjudicial punishment for absence from his appointed place of duty and dereliction of duty.

d. On 24 May 1993, the Chief of Naval Personnel approved Petitioner's request for early separation. Neither the enlisted performance record (page 9) nor the enlisted performance evaluation submitted upon separation is on file in the record. On 1 July 1993, he was released from active duty under honorable conditions (general) and transferred to the Naval Reserve.

e. Petitioner received an honorable discharge upon completion of his military obligated service on 4 September 1998.

f. Petitioner states that his separation under honorable conditions unjustly denies him veterans' educational benefits.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. In this regard, the Board particularly notes Petitioner received an honorable discharge upon completion of his obligated service. Absent evidence to the contrary, a presumption exists that prior to the issuance of the honorable discharge certificate, his record was reviewed and it was determined that he warranted a fully honorable characterization. The Board also notes that Petitioner received only one disciplinary action in almost three years of active service, and there is no indication in available records that his performance of duty was less than satisfactory. Accordingly, the Board concludes that it would appropriate and just to change the characterization on the DD Form 214 to honorable.

RECOMMENDATION:

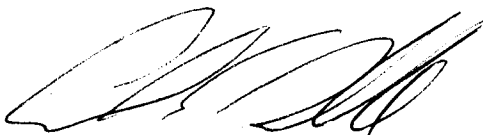
a. That Petitioner's DD Form 214 be corrected to show his character of service on 1 July 1993 was honorable vice under honorable conditions as actually shown on that date.

b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

c. That any material directed to be removed from Petitioner's naval record be returned to the Board together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross references being made a part of Petitioner's naval record.


4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6 (e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6 (e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director